

from another country, has been substantially transformed in an SC/CASA state into a new and different construction material distinct from the material from which it was transformed.

(b) This clause implements the Balance of Payments Program by providing a preference for domestic construction material. In addition, the Contracting Officer has determined that the WTO GPA, all Free Trade Agreements except NAFTA and the Bahrain Free Trade Agreement, and other waivers relating to acquisitions in support of operations in Afghanistan apply to this acquisition. Therefore, the Balance of Payments Program restrictions are waived for SC/CASA state and designated country construction material other than Bahrainian or Mexican construction material.

(c) The Contractor shall use only domestic, SC/CASA state, or designated country construction material other than Bahrainian or Mexican construction material in performing this contract, except for—

(d) If the Contractor is from an SC/CASA state, the Contractor shall inform its Government of its participation in this acquisition and that it generally will not have such opportunity in the future unless its Government provides reciprocal procurement opportunities to U.S. products and services and suppliers of such products and services.

[70 FR 2365, Jan. 13, 2005, as amended at 70 FR 35548, June 21, 2005; 70 FR 73153, Dec. 9, 2005; 71 FR 9271, Feb. 23, 2006; 71 FR 34836, June 16, 2006; 71 FR 58543, Oct. 4, 2006; 72 FR 14243, Mar. 27, 2007; 73 FR 70913, Nov. 24, 2008; 74 FR 2424, Jan. 15, 2009; 74 FR 37651, July 29, 2009; 74 FR 61046, Nov. 23, 2009; 75 FR 66686, Oct. 29, 2010; 75 FR 81921, Dec. 29, 2010; 76 FR 32843, June 6, 2011; 76 FR 38053, June 29, 2011]

252.226-7000 Notice of historically black college or university and minority institution set-aside.

As prescribed in 226.370—9(a), use the following clause:

NOTICE OF HISTORICALLY BLACK COLLEGE OR UNIVERSITY AND MINORITY INSTITUTION SET-ASIDE (APR 1994)

(a) *Definitions. Historically black colleges and universities*, as used in this clause, means institutions determined by the Secretary of Education to meet the requirements of 34 CFR 608.2. The term also means any non-profit research institution that was an integral part of such a college or university before November 14, 1986.

Minority institutions, as used in this clause, means institutions meeting the requirements of section 1046(3) of the Higher Education Act of 1965 (20 U.S.C. 1135d-5(3)). The term also includes Hispanic-serving institu-

tions as defined in section 316(b)(1) of such Act (20 U.S.C. 1059c(b)(1)).

(b) *General.* (1) Offers are solicited only from historically black colleges or universities and minority institutions.

(2) Any award resulting from this solicitation will be made only to an offeror which is a historically black college or university or a minority institution at the time of submission of its initial offer including price.

(c) *Agreements.* The offeror will—

(1) Perform at least 50 percent of the cost of contract performance incurred for personnel with its own employees; and

(2) Upon request by the Contracting Officer, provide evidence prior to award that the Secretary of Education has determined the offeror to be a historically black college or university or minority institution.

(End of clause)

[56 FR 36479, July 31, 1991, as amended at 59 FR 22131, Apr. 29, 1994; 70 FR 73150, Dec. 9, 2005]

252.226-7001 Utilization of Indian organizations, Indian-owned economic enterprises, and native Hawaiian small business concerns.

As prescribed in 226.104, use the following clause:

UTILIZATION OF INDIAN ORGANIZATIONS, INDIAN-OWNED ECONOMIC ENTERPRISES, AND NATIVE HAWAIIAN SMALL BUSINESS CONCERNS (SEP 2004)

(a) *Definitions.* As used in this clause—

Indian means—

(1) Any person who is a member of any Indian tribe, band, group, pueblo, or community that is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs (BIA) in accordance with 25 U.S.C. 1452(c); and

(2) Any “Native” as defined in the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*).

Indian organization means the governing body of any Indian tribe or entity established or recognized by the governing body of an Indian tribe for the purposes of 25 U.S.C. chapter 17.

Indian-owned economic enterprise means any Indian-owned (as determined by the Secretary of the Interior) commercial, industrial, or business activity established or organized for the purpose of profit, provided that Indian ownership constitutes not less than 51 percent of the enterprise.

Indian tribe means any Indian tribe, band, group, pueblo, or community, including native villages and native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska